

Exhibit 2



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12

Nintendo files lawsuits in crackdown against Switch hackers

Two new lawsuits were filed on Friday

By [Nicole Carpenter](#) | [@sweetpotatoes](#) | May 18, 2020, 9:12am EDT



Photo: Michael McWhertor/Polygon

Nintendo of America filed [two lawsuits](#) on Friday against Nintendo Switch hack resellers that sell software to play pirated video games, according to court documents obtained by

Polygon.

The first lawsuit was filed Friday in an Ohio court against Tom Dilts Jr., the alleged operator of the website UberChips. The second lawsuit was filed in a Seattle court that same day, against a number of anonymous defendants from a selection of websites. All defendants reportedly sell products from a group of anonymous hackers called “Team Xecuter.” Nintendo’s lawyers described the products as “an unauthorized operating system ... and accompanying piracy tools that install it.”

These products allow users to get around Nintendo’s “technological protection measures” designed to protect its products from “unauthorized access and copying.” Once it’s disabled, players can download the unauthorized operating system and play pirated video games, lawyers said.

In an attempt to crackdown on the hacks, Nintendo is focusing its legal efforts on the resellers. In 2018, Nintendo filed a similar lawsuit [against a Team Xecuter hack reseller](#). In January, it won an injunction against the defendant of that case, Sergio Mojarro Moreno, who was ordered to stop reselling the hacks. Likewise, Nintendo filed a lawsuit in September 2019 [against a ROM website called RomUniverse](#), which allows members to download pirated video games for the system and others.

Polygon has reached out to Nintendo for more information.

At the time of writing, the UberChips website appears to be offline — under “scheduled maintenance.” Other websites listed in the second lawsuit are still operating. A kit used for hacking the Nintendo Switch is listed for \$47.99. The site also sells products for the SNES Classic, PlayStation Mini, Nintendo 3DS, and Game Boy Advance.

The websites are also offering pre-orders for devices that will circumvent protection measures for the previously unhackable Nintendo Switch Lite and newer Nintendo Switch models. Nintendo said this is causing “tremendous harm” to the company; Nintendo lawyers said hundreds of the devices have already been sold.

Nintendo is seeking \$2,500 per trafficking violation in each of these cases, as well as a permanent injunction to stop operations of these websites.

[Nintendo hack reseller 2](#) by [Polygondotcom](#) on Scribd

“Technological Measures”) that Nintendo put into place to protect its invaluable copyrighted software and video games from unauthorized access and copying. The sole purpose of the Circumvention Devices and the SX OS is to hijack the Nintendo Switch by circumventing its Technological Measures, thereby allowing the Nintendo Switch to be used for massive intellectual property theft and infringement.

4. Once this circumvention has occurred, the SX OS can run on the Nintendo Switch, modifying the authentic, authorized Nintendo Switch operating system, thereby allowing users to bypass the Technological Measures to obtain and play virtually any pirated game made for the Nintendo Switch, all without authorization or paying a dime to Nintendo or to any of the large number of authorized game publishers making games for Nintendo Switch. For example, with the SX OS running, users can find pirated Nintendo Switch games online, transfer unauthorized copies of Nintendo Switch games to a memory card, insert that card into the Nintendo Switch, and play those infringing games on the hacked Nintendo Switch. If users

2

Case: 3:20-cv-01076 Doc #: 1 Filed: 05/15/20 3 of 30. PageID #: 3

already own a *lawful*, properly purchased copy of a Nintendo Switch game, they can use the SX OS to turn that lawful copy into an *unlawful* copy without technological protection measures, which then allows those users to share additional unauthorized copies with more users also using the SX OS on the Nintendo Switch.

5. Team Xecuter has been trafficking in devices that circumvent protections on the Nintendo Switch since May 2018, when they released the “SX Pro,” a small piece of hardware (or “dongle”) that can be inserted into the Nintendo Switch. Once the dongle is inserted into the Nintendo Switch console, the console can operate SX OS (which the user inserts with a separate memory card), thereby allowing users to circumvent the Nintendo Switch’s Technological Measures, and copy, share, distribute, and use pirated games.

1 of 30

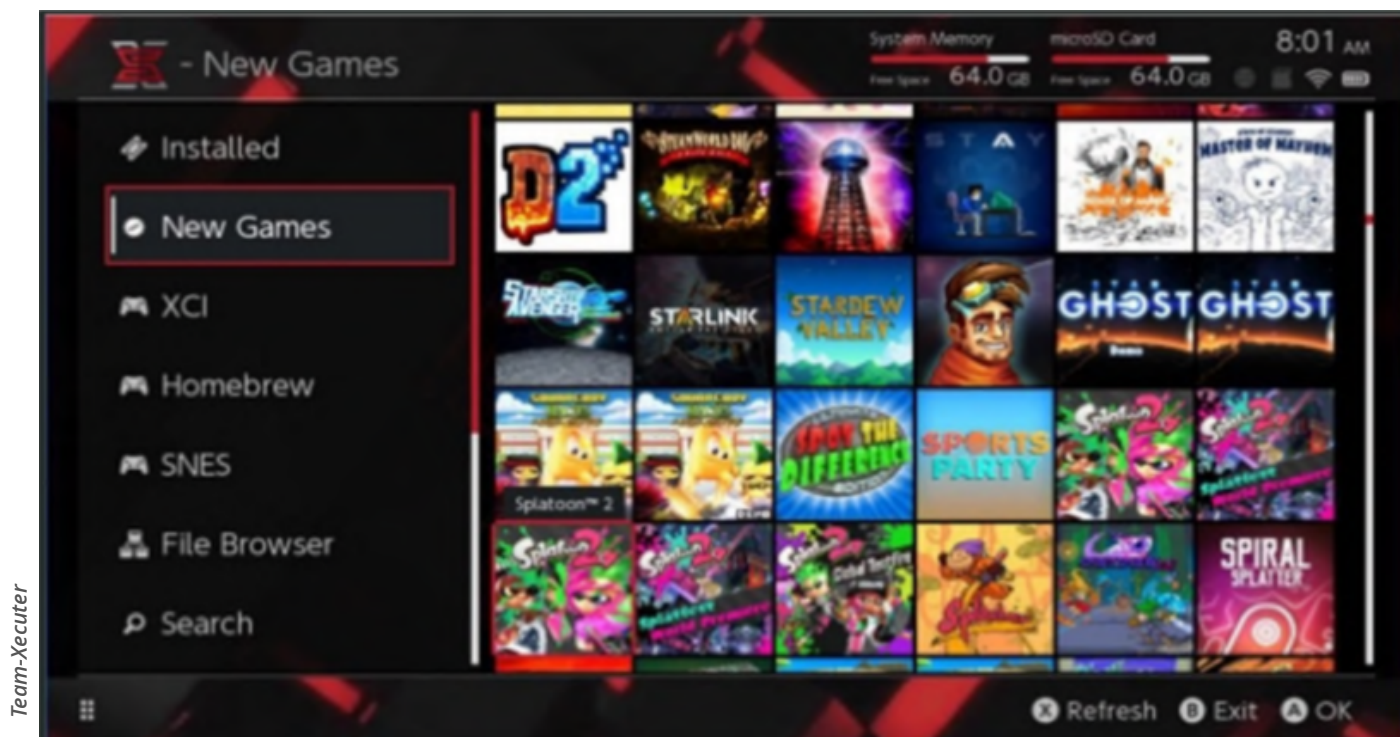


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With new Switch-hacking tech looming, Nintendo targets retailers

Team-Xecuter hackers plan solderable device that even works on "updated" hardware.

KYLE ORLAND - 5/18/2020, 5:26 PM



[Enlarge](#) / An SX OS menu screen showing multiple pirated games, as seen in Nintendo court documents.

Nintendo is going to court to stop a number of retailers that allegedly sell a Switch modification device that allows users to play pirated games on older versions of the system. But the console maker is also using those

lawsuits to warn retailers away from taking pre-orders for an impending hardware hack designed to work on more recent Switch consoles, including the Switch Lite.

The lawsuits—obtained by Polygon after their filing in Ohio and Seattle courts on Friday—focus on websites that sell products from hacking collective Team-Xecuter. That group currently manufactures the SX Pro, a simple USB device which allows users to install a custom "SX OS" operating system on the Switch from a memory card. With SX OS installed, users can "play virtually any pirated game made for the Nintendo Switch, all without authorization or paying a dime to Nintendo or to any of the large number of authorized game publishers making games for Nintendo Switch," according to the filings.



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The SX Pro only works with the roughly 20 million Switch consoles released before June 2018, which were susceptible to an unpatchable exploit in their Nvidia Tegra CPUs. The 35 million Switch and Switch Lite systems since then sport an updated chipset that cannot be hacked using that exploit.

FURTHER READING

The "unpatchable" exploit that makes every current Nintendo Switch hackable [Updated]

But Nintendo notes in its lawsuits that Team-Xecuter says it is nearing release of new Switch-hacking devices, dubbed SX Core and SX Lite, which can install SX OS on any Switch console, including those with updated chipsets.

Watch out for solder burns

Unlike the relatively simple, strictly external hacks for older Switch models, Team-Xecuter's new SX models for Switch hacking seem to involve opening up the console and soldering a small SD card reader directly onto the main motherboard. Team-Xecuter first teased those new models last October before showing a preview of the new device running SX OS on a Switch Lite back in December. The Team then sent these updated SX units to testers and reviewers earlier this month, according to its website.

Team-Xecuter



[Enlarge](#) / A prototype SX Pro device soldered to a Nintendo Switch motherboard.

In its lawsuits, Nintendo takes direct aim at the retailers offering pre-orders for Team-Xecuter's new offerings and warns of their potential effect on its business.

"On information and belief, Defendants have accepted and confirmed hundreds of other preorders for the SX Core and the SX Lite throughout the United States, and plan to ship the products to purchasers when they become available, which is expected imminently," the company writes.

"The scale of potential harm from Defendants' trafficking in the SX Core and SX Lite is astounding, threatening the circumvention of the Technological Measures protecting more than 35 million additional Nintendo Switch and Nintendo Switch Lite consoles currently in the marketplace (on top of the 20 million pre-June 2018 Nintendo Switch consoles)," the lawsuits continue.

Badly Xecuter-ed?

Team-Xecuter has something of a controversial reputation in the Switch-hacking community. That's because of its focus on profiting from what are otherwise [generally open source efforts](#) to identify and publicize vulnerabilities in console hardware. Team-Xecuter also markets its devices with a specific focus on decrypting and copying legitimate software, while open source hackers tend to keep the focus on installing homebrew software and [custom firmware](#) that doesn't directly enable piracy.

"I do strongly disagree with the idea of hiding software exploits and then releasing modchips that use (potentially obfuscated) versions of them," Kate Temkin, a member of the ReSwitched Team collective that originally hacked the system, [told Ars in 2018](#). "I think it's both unethical—as it gives malicious actors a chance to pick up and use the vulnerabilities before they can be addressed or public knowledge can spread—and against the spirit of knowledge-exchange we want to see in the console-hacking community."

"It's difficult to balance the goals of 'opening up' closed hardware and preventing things like piracy," Temkin added. "Unfortunately, enabling people to have full access to their systems inevitably means that some people are going to use that access in ways we don't agree with."

Team-Xecuter also attracted some negative attention in 2018 with [the prominent anti-piracy protections on its own piracy-enabling SX OS software](#). "We do implement inconveniences to safeguard anti-tampering of our SX OS boot file to remain at a competitive advantage," Team-Xecuter [told The Verge](#) at the time.

In addition to damages of up to \$2,500 per sale, Nintendo is seeking court orders to block the further sale of all Team-Xecuter hacking devices from the identified retailers and for the "seizure, impoundment, and destruction of all Circumvention Devices."

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KYLE ORLAND

Kyle is the Senior Gaming Editor at Ars Technica, specializing in video game hardware and software. He has journalism and computer science degrees from University of Maryland. He is based in the Washington, DC area.

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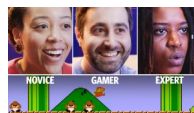
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Nintendo Switch hack pirates now face legal action

By [Gerald Lynch](#) 2 days ago

Can't pay? No play, says Nintendo



(Image credit: Nintendo)

[Nintendo Switch](#) pirates, look out – Mario's legal team has its legal fire plants primed to take you on. The company has filed two lawsuits against Nintendo Switch hack resellers that sell software and equipment to aid the play of pirated Nintendo games.

According to [Polygon](#), the first suit is aimed at Tom Dilts Jr., apparent operator of the website UberChips, while the second is a group lawsuit filed against anonymous defendants across numerous websites. All are selling products from "Team Xecuter", which has created "an unauthorized operating system ... and accompanying piracy tools that install it."

Collectively, the tools and OS allows users to get around Nintendo's copy protection measures, allowing users to install pirated Nintendo Switch games.

- [Nintendo Switch review](#): Nintendo's best ever console?
- [Best Nintendo Switch games](#): The top titles for Nintendo's hybrid handheld
- [Nintendo Switch Lite review](#): Small on size, big on gaming

Further hacks

UberChips is currently offline (under "scheduled maintenance"), but other sites mentioned by Nintendo's legal team are not only still online, but selling hack tools for other machines, such as the [SNES Classic](#), [Nintendo 3DS](#) and [PlayStation Mini](#).

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Even worse, they're taking pre-orders on new devices that will hack the thought-to-be-hackproof Nintendo Switch Lite and newer classic Switch models.

Nintendo states that these operations are causing "tremendous harm" to its business, and will be looking for \$2,500 per trafficking violation, as well as an injunction to stop further sales.

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fullmetalhobbit64 2 points · 9 days ago

I'm an ethical switch hacker. I buy ALL my switch games and dlc. We do exist.

xX_EthanKitKat_Xx 3 points · 13 days ago

Nintendo fanboys down voting comments about people accepting hacking.

GiveMeBamboo 14 points · 13 days ago

They despise the idea of people having ownership of their own property. In the mean time I can play Mother 3 on my switch while they beg for ports.

[Continue this thread →](#)

xX_EthanKitKat_Xx -2 points · 13 days ago

And the fanboys are now down voting 😏

Dreyfus2006 0 points · 13 days ago

Yeah I'm noticing that too.

fliphat -3 points · 14 days ago

We need hacker tbh bacause i want to be able to locally backup my saves someday. It is just unfair to genuine customer who DO paid but have all the inconvenience directed to consumer now.

[Comment removed by moderator](#) 13 days ago More than 1 child

ZeroLimitXSZ -2 points · 14 days ago

Good. Hacking should only be a thing for advanced users and for homebrew purposes. Selling these things with pirated games in them for the average joe is a big nono.

Surely though, Nintendo could do more to stop this. Like how Sony does. The PS4 did get hacked, but the only people with modded PS4s use it for homebrew and checking game's files for hidden stuff. That's usually because PS4 users don't want to stay in lower, vulnerable firmwares, as the online features in their consoles are good and they can get hefty discounts for older games. Nintendo should follow suit. They ban pirates from online use, but there's not much use to going online if you don't care about Pokemon and Smash...

zombiepoon 6 points · 13 days ago

its just pirating is a shit thing to do. mostly ppl wanna hack their switch for this reason.

[Continue this thread →](#)

jack9761 -3 points · 13 days ago

You have to disassemble your device and solder points, also it only comes bundles with CFW that can assist with piracy.

Also Nintendo Switch Online doesn't have any features that homebrew can't do other an online play. Retroarch does way emulation, and Edison can backup saves, so there is pretty much no incentives.

BaronKlatz -4 points · 14 days ago

<https://i.imgur.com/xrinj.jpg>

Get 'em!

[maniacal-middle](#) -9 points · 14 days ago 0 children

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Posted by u/TheUnknownRedditDude 4 days ago

11.7k **Image of Super Nintendo World**





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Nintendo Sues Websites for Selling Switch-Hacking Devices
 By Blake Brittain
 May 18, 2020, 11:45 AM

- **COURTS:** N.D. Ohio, W.D. Wash.
 - **TRACK DOCKETS:** [Nos. 3:20-cv-01076](#) (Uberchips); [2:20-cv-00738](#) (Anxchip) (Bloomberg Law Subscription)
 - **COMPANY INFO:** [Nintendo of America Inc.](#) (Bloomberg Law Subscription)
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Bloomberg Law News 2020-05-18T21:32:38574-04:00

By Blake Brittain 2020-05-18T11:45:52000-04:00

COURTS: N.D. Ohio, W.D. Wash.

TRACK DOCKETS: Nos. 3:20-cv-01076 (Uberchips); 2:20-cv-00738 (Anxchip) (Bloomberg Law Subscription)

COMPANY INFO: Nintendo of America Inc. (Bloomberg Law Subscription)

Nintendo of America Inc. sued nine websites in Ohio and Washington federal courts for allegedly selling devices to hack Nintendo's best-selling Switch handheld video game system.

The devices, made by an anonymous group of hackers called "Team Xecuter," allow users to circumvent technological prevention measures and download and play "virtually any pirated game made for the Nintendo Switch, all without authorization or paying a dime," Nintendo said.

According to Nintendo, Team Xecuter started selling the "SX Pro" to hack the Switch in 2018. Nintendo updated its hardware to block the SX Pro later that year.

The complaint said the hackers have created new devices called the "SX Core" and "SX Lite" to hack Nintendo's 2019 version of the Switch and its smaller Switch Lite. Team Xecuter announced that preorders were available in April and sent review copies of the devices in May, Nintendo said.

"Together, these new Circumvention Devices threaten to expose more than 35 million additional Nintendo Switch consoles and Nintendo Switch Lite handheld devices to piracy," Nintendo said.

Causes of Action: Violations of the Digital Millennium Copyright Act.

Relief: Injunctive relief, damages, attorneys' fees and costs.

Attorneys: Vorys Sater Seymore & Pease LLP and Jenner & Block LLP represent Nintendo.

The cases are Nintendo of Am. Inc. v. Dilts , N.D. Ohio, No. 3:20-cv-01076, complaint filed 5/15/20 and Nintendo of Am. Inc. v. Anxchip.com , W.D. Wash., No. 2:20-cv-00738, complaint filed 5/15/20 .

To contact the reporter on this story: Blake Brittain in Washington at bbrittain@bloomberglaw.com

To contact the editors responsible for this story: Rob Tricchinelli at rtricchinelli@bloomberglaw.com; Patrick L. Gregory at pgregory@bloomberglaw.com

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Nintendo of America Files Two New Lawsuits Against Switch Hack Resellers

Causing "tremendous harm"



by Liam Doolan · Mon 18th May 2020

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Nintendo's legal team is at it again. Polygon reports Nintendo of America filed two lawsuits last Friday in an attempt to crack down on Switch hack resellers that sell software allowing users to play pirated video games.

The first was filed against Tom Dilts Jr., who is believed to be the operator of the website UberChips, and the second lawsuit targeted "a number of anonymous defendants" from multiple websites.

The websites of the defendants reportedly sell products from an anonymous group of hackers known as "Team Xecutor" – who "unlawfully" design and manufacture "unauthorized operating system ... and accompanying piracy tools" that allow users to bypass protections in place.

The sole purpose of the Circumvention Devices and the SX OS is to hijack the Nintendo Switch by circumventing its Technological Measures, thereby allowing the Nintendo Switch to be used for massive intellectual property theft and infringement.

Nintendo wants \$2,500 per trafficking violation and is also requesting a permanent injunction to put a stop to the operation of these websites once and for all.

[source [polygon.com](#)]

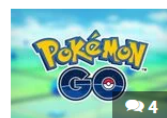
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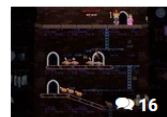
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(<https://www.nintendoenthusiast.com>)

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Nintendo targets Switch piracy hackers with dual lawsuits

Halting the hackers

 By **A.K RAHMING** ([HTTPS://WWW.NINTENDOENTHUSIAST.COM/AUTHOR/AKIA-RAHMING/](https://www.nintendoenthusiast.com/author/akia-rahming/)) 2 days ago



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Nintendo is no stranger to **waving its legal finger** (<https://www.nintendoenthusiast.com/nintendo-has-actually-won-over-12-million-from-piracy-lawsuit/>) at parties it deems to be infringing upon its properties. That's exactly what's happening between Nintendo of America and some resellers of software that can hack Switch units to play pirated software. The company has filed two lawsuits; one in an Ohio court against Tom Dilts Jr., who allegedly operates a website called UberChips. The other lawsuit was filed in a Seattle court against "a number of anonymous defendants from a selection of websites", **reports Polygon**. (<https://www.polygon.com/2020/5/18/21262121/nintendo-switch-hacking-lawsuit-pirated-games>) Interestingly though, these defendants have apparently been selling products from the infamous **Team Xecuter** (<https://www.nintendoenthusiast.com/team-xecuter-announces-hacked-custom-firmware-coming-switch/>), a notorious Switch hacking group that has sparked waves of controversy due to their various hacking tools that have been released over the Switch's current lifetime. Ironically, this is the same hacking group that **created an anti-piracy program for its piracy program**. (<https://www.nintendoenthusiast.com/switch-hackers-defend-the-security-measures-in-their-own-piracy-program/>)

As a result of the lawsuits, the UberChips website has been taken down, simply displaying a "scheduled maintenance" message for the time being. Nintendo has yet to be successful with bringing down the other websites in question, however. They are currently still live and continue to host hacking products for sale, not only for the entire family of Switch systems but even other consoles as well, including the Nintendo 3DS.

Money matters

What Nintendo is looking for in terms of money seems rather light, however—\$2500 per trafficking violation. The company is also seeking a permanent injunction in order to bring all of these websites down. The reason why I said this fee seems "rather light" is that it is notably smaller than what Nintendo hit Jacob Mathias with back in 2018. Mathias was the owner of the now-defunct LoveROMs and LoveRetro websites. He was hit with a massive **\$100 million lawsuit** (<https://www.nintendoenthusiast.com/nintendos-100-million-lawsuit-against-rom-site-creator-is-being-settled/>) primarily due to "copyright infringement". It is likely that Nintendo didn't actually expect to get all of that money, but simply wanted to send a strong message to the ROM community. That message did indeed hit hard, as EmuParadise, a very large repository of ROMs, ISOs, and emulators **caved under the pressure just weeks later**, (<https://www.nintendoenthusiast.com/emuparadise-has-removed-its-entire-library-of-roms-and-isos/>) despite Nintendo not taking any formal legal action against the site.

As it stands, Nintendo may likely win these two sets of new cases. However, this probably won't bring an end to the Switch hacking scene. Unfortunately, as we've seen many times before, even if one cell is neutralized, many more tend to float around. So, while this may prove to be a hit to the hacking community, chances are it will continue to trudge on until Nintendo chases after another it again.

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A.K. RAHMING ([HTTPS://WWW.NINTENDOENTHUSIAST.COM/AUTHOR/AKIA-RAHMING/](https://www.nintendoenthusiast.com/author/akia-rahming/))

Having been introduced to video games at the age of 3 via a Nintendo 64, A.K has grown up in the culture. A fan of simulators and racers, with a soft spot for Nintendo! But, he has a great respect for the entire video game world and enjoys watching it all expand as a whole.

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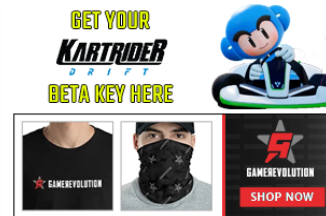
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A member of Ni Treehouse loca



Nintendo sues alleged Switch hackers who caused 'tremendous harm' to the company

by ROBERT N. ADAMS Monday, May 18, 2020



A group of alleged **Nintendo Switch** hackers are being sued by **Nintendo** for causing "tremendous harm" to the company in a new court filing. The lawsuit alleges that these hackers have enabled **Nintendo Switch** modding and **game piracy** as central issues.

Two lawsuits have been filed last Friday by the Japanese hardware and software manufacturer. The first targets the owner of the "Uberchips" website over a third-party device for the console. The second lawsuit, meanwhile, goes after a number of anonymous individuals hiding behind online aliases.

ALSO: PS5 reveal event will reportedly have 'a lot' of games

"The sole purpose of the Circumvention Devices and the SX OS is to hijack the Nintendo Switch by circumventing its Technological Measures, thereby allowing the Nintendo Switch to be used for massive intellectual property theft and infringement," stated one of the lawsuits according to **Polygon**.

While the software and hardware created by Nintendo Switch hackers can be used for game piracy, it can also be used for more benign purposes like modding a console. Regardless of a user's intent, these devices probably have to circumvent technological protections in place and likely violate the Digital Millennium Copyright Act.

The anonymous hackers may be difficult to track down, but Uberchips is allegedly operated by Tom Dilts Jr. At the time of writing, it appears that he has shut down his operation and apologized via a message on the device's website.

"I am sorry to inform everyone, but we must refund all pre-orders and cancel all pre-orders for SX Core and SX Lite," states the message on the **Uberchips website**.

"We intended no harm by selling pre-orders of this product."



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Nintendo files two new lawsuits against TX-related resellers

By **Krista Noren** (Chary)

Senior Editor

May 18, 2020 at 5:41 PM  GBAtemp & Scene News

The never-ending legal battle that sees Nintendo face off against the latest copyright circumventing piracy device continues with two brand new lawsuits. On May 15th, Nintendo filed a couple of lawsuits involving entities responsible for reselling devices used for the "sole purpose of which is to hack the Nintendo Switch video game console in order to allow people to play pirated video games." The first lawsuit is against a group of websites and their respective "John Doe" owners, for anxchip.com, axiogame.com, flashcarda.com, mod3dscards.com, nx-card.com, sxflashcard.com, txswitch.com, and usachips.com, while the second suit specifically targets Tom Dilts Jr. and their company Uberchips.

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF
OHIO WESTERN DIVISION NINTENDO OF AMERICA INC.

Plaintiff

,v.

TOM DILTS, JR.

and

UBERCHIPS, LLC, d/b/a UBERCHIPS.COM

Plaintiff Nintendo of America Inc., by and through its counsel, on personal knowledge as to its own actions and on information and belief as to the actions, capabilities, and motivations of others, hereby alleges as follows:

What all these sites have in common is that they sell Team Xecuter's SX dongle, which allows users to bypass the protection on the Nintendo Switch in order to load custom firmware. Nintendo alleges that these products are used purely for piracy. In the past, Nintendo's taken on TX multiple times, perhaps most notably in 2018 where they won a lawsuit against several people who were selling hacked NES Classic systems and SX chips for the Switch on Offerup.

3. Specifically, Defendants' website sells products from an anonymous group of hackers called "Team Xecuter." Team Xecuter unlawfully designs and manufactures an unauthorized operating system ("OS") called the "SX OS," and accompanying piracy tools that install it (the "Circumvention Devices"). The Circumvention Devices—offered, distributed, and trafficked by Defendants—strip away or circumvent technological protection measures (the "Technological Measures") that Nintendo put into place to protect its invaluable copyrighted software and video games from unauthorized access and copying. The sole purpose of the Circumvention Devices and the SX OS is to hijack the Nintendo Switch by circumventing its Technological Measures, thereby allowing the Nintendo Switch to be used for massive intellectual property theft and infringement.

Nintendo is seeking compensation for "irreparable" damages to the company, as all of the websites have warehouses within the United States, and thus fall within the confines of the law. The monetary demands amount to \$2,500 per violation of 17 U.S.C. 1201 (a DMCA provision), as well as \$150,000 per violation of Nintendo's rights under the U.S. Copyright Act, in addition to possibly requesting profits the resellers received from selling the offending devices.

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#1 May 18, 2020